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FEDERAL TRADE COMMISSION
**Agency Information Collection Activities;
Submission for OMB Review; Comment Request**

AGENCY: Federal Trade Commission (“Commission” or “FTC”).

ACTION: Notice.

SUMMARY: The FTC plans to conduct a qualitative survey of consumers who recently purchased an automobile and financed that purchase through a dealer. Through a survey research firm, the FTC seeks to interview consumers about the consumers’ experience in selecting, purchasing, and financing an automobile from a dealer. The interviews also will involve reviewing the consumer’s documentation from the purchase and financing. This is the second of two notices required under the Paperwork Reduction Act (“PRA”) in which the FTC seeks public comments on its proposed consumer research. The proposed information collection described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the PRA.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Auto Buyer Consumer Survey, Project No. P154800” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/autobuyersurveypra2>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the

Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds, 202-326-3230, or Teresa Kosmidis, 202-326-3216, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Mail Stop-CC-10232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

For many consumers, aside from housing costs, a car purchase is their most expensive financial transaction. With prices averaging more than \$34,000 for a new vehicle and \$20,000 for a used vehicle from a dealer, most consumers seek to finance the purchase of a new or used car.¹ Consumers may seek financing from their local bank or credit union, as well as from the dealer selling the vehicle. Financing obtained at the dealership, whether it is provided by a third party or directly by the dealer, may provide benefits for many consumers, such as convenience, special manufacturer-sponsored programs, access to a variety of banks and financial entities, or

¹ As of December 2015, the average price of a new car sold in the U.S. was \$34,428, according to Kelley Blue Book. See Kelley Blue Book, Record New-Car Transaction Prices Reported In December 2015, According to Kelley Blue Book (Jan. 5, 2016), available at <http://mediaroom.kbb.com/record-new-car-transaction-prices-reported-december-2015>. The average price of a used car is \$20,057. See Used Car Prices Hold Up in Strong New-Vehicle Market), J.D. Power (Sept. 8, 2015), available at <http://www.jdpower.com/cars/articles/used-cars/used-car-prices-hold-strong-new-vehicle-market>. Used cars available from independent dealers and from “buy here pay here” dealers have been lower in price. For example, in 2014, over 42% of cars were sold at an average sales price of \$5,000 - \$10,000 at independent dealers; the average cost of cars was \$7,150 at “buy here pay here” dealers. See 2015 NIADA Used Car Industry Report, at 6 and 16, respectively, available at <http://www.niada.com/publications.php>.

access to credit otherwise unavailable to a buyer. Financing that is offered or arranged by dealers, however, can be a complicated, opaque process and potentially involve unfair or deceptive practices.²

As the nation’s longstanding consumer protection agency, the Commission is committed to protecting consumers in connection with auto-related transactions. The Commission has broad authority to protect consumers in this area. The agency enforces the FTC Act, which prohibits unfair and deceptive practices by a wide variety of entities, including automobile dealers.³ Also pursuant to the Dodd-Frank Act,⁴ the FTC is authorized to prescribe rules under Section 553 of the Administrative Procedure Act (“APA”)⁵ with respect to unfair or deceptive acts or practices by motor vehicle dealers.⁶

² See *infra* notes 7 – 9 and accompanying text.

³ 15 U.S.C. 45(a). The Commission also has enforcement authority over automobile dealers under various other statutes, including, for example, the Truth in Lending Act, 15 U.S.C. 1601-1666j, and its implementing Regulation Z, 12 CFR 226, 12 CFR 1026; the Consumer Leasing Act, 15 U.S.C. 1667-1667f, and its implementing Regulation M, 12 CFR 213, 12 CFR 1013; the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, and its implementing Regulation B, 12 CFR 202, 12 CFR 1002; the Electronic Fund Transfer Act, 15 U.S.C. 1693-1693r, and its implementing Regulation E, 12 CFR 205, 12 CFR 1005; and the privacy and safeguard provisions of the Gramm-Leach Bliley Act, 15 U.S.C. 6801-6809, and related privacy rule, 16 CFR 313, and safeguards rule, 16 CFR 314.

⁴ Dodd-Frank Wall Street Reform and Consumer Protection Act § 1029, 12 U.S.C. 5519.

⁵ 5 U.S.C. 553.

⁶ See Dodd-Frank Act § 1029(d), 12 U.S.C. 5519(d). Under the Dodd-Frank Act, the term “motor vehicle dealer” refers to “any person or resident in the United States, or any territory of the United States, who (A) is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles; and (B) takes title to, holds an ownership in, or takes physical custody of motor vehicles.” *Id.* at 1029(f)(2), 12 U.S.C. 5519(f)(2). The term “motor vehicle” includes, among other things, motorcycles, motor homes, recreational vehicle trailers, recreational boats and marine equipment, and other vehicles titled and sold through dealers. See *id.* at 1029(f)(1), 12 U.S.C. 5519(f)(1).

In recent years, the FTC has been particularly active in enforcement and other initiatives related to automobile transactions. Since 2011, the FTC has brought more than 25 cases protecting consumers in this area, including a sweep of ten actions against automobile dealers for deceptive advertising, and a coordinated federal-state effort that yielded more than two hundred automobile actions for fraud, deception, and other illegal practices.⁷ In 2011, the FTC conducted three automobile “roundtables” around the country, where panelists from government, consumer advocacy groups, and industry discussed consumer protection issues related to sales, financing, and leasing practices involving automobiles; the Commission also sought and received public comments on these issues.⁸ Additionally, the FTC has produced many consumer education and business education materials related to automobile purchasing and financing.⁹

⁷ See Press Releases, FTC Announces Sweep Against 10 Auto Dealers (Jan. 9, 2014), *available at* <http://www.ftc.gov/news-events/press-releases/2014/01/ftc-announces-sweep-against-10-auto-dealers>; FTC Approves Final Consent Orders in Deceptive Auto Dealers’ Ad Cases (May 6, 2014), *available at* <http://www.ftc.gov/news-events/press-releases/2014/05/ftc-approves-final-consent-orders-deceptive-auto-dealers-ads> and FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing (Mar. 26, 2015), *available at* <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>. See also <https://www.ftc.gov/news-events/media-resources/consumer-finance/auto-marketplace>.

⁸ See Press Release, FTC Continues To Seek Public Input On Consumer Issues in Motor Vehicle Sales, Financing and Leasing, *available at* <http://www.ftc.gov/news-events/press-releases/2012/02/ftc-continues-seek-public-input-consumer-issues-motor-vehicle>. See also Public Comments, #369: FTC Roundtables Will Address Consumer Issues in Motor Vehicle Financing and Leasing; FTC File No. P104811, *available at* <https://www.ftc.gov/policy/public-comments/initiative-369>.

⁹ See, e.g., Understanding Vehicle Financing (revised January 2014), produced in cooperation with the American Financial Services Education Foundation and the National Automobile Dealers Association, *available at* <http://www.consumer.ftc.gov/articles/0056-understanding-vehicle-financing>; Lesley Fair, FTC, Operation Ruse Control: 6 tips if cars are up your alley (Mar. 26, 2015), *available at* <https://www.ftc.gov/news-events/blogs/business-blog/2015/03/operation-ruse-control-6-tips-if-cars-are-your-alley>; Colleen Tressler, FTC, Check out the auto dealer and financing before you sign (Oct. 31, 2014), *available at* <http://www.consumer.ftc.gov/blog/check-out-auto-dealer-and-financing-you-sign>.

The FTC’s proposed survey will explore in more detail the experience of actual consumers who recently purchased and financed an automobile from a dealer.¹⁰ The survey is intended to inform the Commission about current consumer protection issues that may exist and that could be addressed through FTC action, including enforcement initiatives, rulemaking, or education.

II. The FTC’s Proposed Study

A. Study Description

The FTC plans to conduct a qualitative survey of consumer experiences in recent purchases of automobiles that were financed through automobile dealers. The survey will involve an initial sample of five in-person consumer interviews to test the survey questionnaire, followed by in-person interviews of 40 consumers, with the option to interview 40 more, if the FTC deems the additional interviews likely to be helpful. For the initial 40 consumers, the FTC seeks to interview approximately 20 consumers who have “prime” or “above subprime” credit scores and approximately 20 consumers who have “subprime” credit scores in order to learn about the consumer’s experience with purchasing and financing in these two market segments.¹¹

¹⁰ For purposes of this survey, “automobile” refers to cars, minivans, SUVs, and light trucks – all of which consumers commonly purchase and finance through automobile dealers. Depending on the consumers who participate in the survey, the dealers could potentially include: (1) franchise dealers (*e.g.*, that have franchises with automobile manufacturers and may offer consumers financing that is assigned to “captive” finance companies — subsidiaries owned by the manufacturers — or to other finance entities); (2) independent dealers (*e.g.*, that do not have franchises with automobile manufacturers and may offer consumers financing that is assigned to finance entities that are not subsidiaries owned by the manufacturers but that may be an entity related to or associated with the dealer); and (3) “buy here pay here” dealers (*e.g.*, a type of independent dealer that offers consumers in-house financing that the dealers usually retain, although some larger dealers may assign the financing to “buy here pay here” finance entities).

¹¹ For example, Experian categorizes consumers with scores below 601 as subprime. Other scores are above subprime, and categorized as nonprime or prime. *See generally* Experian, State of the Automotive Finance Market, A look at loans and leases in Q1 2016, available at <http://www.experian.com/automotive/automotive-credit->

Generally, the sample group of consumers will be racially diverse and will include participants of both sexes. The contractor also generally will strive to obtain a mix of ages and income levels, as well as a mix of consumers who purchased and financed a vehicle from franchise, independent, and buy here pay here dealers. The FTC has contracted with Shugoll Research, Inc. (“Shugoll”), a consumer research firm located in metropolitan Washington, D.C., with substantial experience conducting consumer surveys, to locate the participants, conduct the survey, and write a brief methodological report and any other report if requested by the FTC. Shugoll will select the consumers from a pool of people who previously have indicated that they are willing to participate in surveys but who have not participated in any in-depth survey interviews in the past year. Shugoll will identify interview participants who have purchased an automobile, from a dealer in the greater Washington, D.C. metropolitan area, in the previous six months, and used financing offered or arranged by the dealer to make the purchase. The participants also must have kept the documentation (e.g., credit contract) he or she received as part of the purchase and financing.¹² The consumer’s credit score will be used in the survey; if survey participants do not have their credit score, the consumer may obtain it through services that provide this information and provide documentation of the score to Shugoll.¹³ The interview participants and their personal identifying information will be anonymized in material received

[webinar.html](#).

¹² In addition, two other screening criteria apply: (1) consumers and immediate family must not work in advertising, public relations, or market research, nor in the automobile industry or a finance company; and (2) consumers must be able and willing to provide answers that can be clearly understood in English.

¹³ For privacy purposes, Shugoll will not obtain the credit score for the consumer, but will explain to consumers who do not have their score that various sources are available for promptly obtaining this information, including some that do not charge.

by the FTC, and will be vigorously protected by the survey firm.¹⁴

Shugoll will conduct interviews lasting approximately 90 minutes with each consumer.

The interviews will focus on, among other things:

- the consumer's experience in shopping for and choosing an automobile;
- the process of agreeing to a price for the automobile;
- the process of trading in the consumer's used automobile, if applicable;
- the consumer's experience in obtaining financing, and discussion of any GPS or tracking device installed in connection with the financing;¹⁵
- additional products or services the dealer may have offered;
- contracts and post-purchase experience, such as that related to review and signing of paperwork;
- other points raised by the consumer about the process;¹⁶ and
- the consumer's overall perception of the purchase experience.

The interviews will conclude by reviewing the consumer's documentation and exploring the

¹⁴ Shugoll will set up two secure databases for maintaining information about potential and selected survey participants. The firm will assign each consumer a random identification number ("random ID number"), and that information along with the consumer's identifying information will be maintained by the contractor in one database. The FTC will only have access to a second database that will include the random ID number with anonymized information about the consumers and redacted information regarding the consumers' purchase and finance documents. Thus, only redacted copies of consumer identifiers in purchase and finance documents will be maintained in the survey. The survey will utilize rigorous protections for privacy and security of consumer information.

¹⁵ This interview topic now clarifies that discussion of any GPS or tracking devices could be included if part of the consumer's experience.

¹⁶ The interview topics now clarify that the survey will consider other points that the consumer may raise about the process.

consumer's understanding of that documentation. The walk-through of the consumer's documents will include:¹⁷

- the consumer's overall understanding of the documents;
- a review of the available documents;
- a review of the terms of the deal;
- the consumer's views of the documents and terms;
- discussion of any other documents; and
- other points raised by the consumer about the documents.

Participation in the survey will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they can provide useful insights into consumer experiences and understanding of the automobile purchasing and financing process at the dealership.

B. PRA Burden Analysis

In its January 7, 2016 Notice,¹⁸ the FTC provided PRA burden estimates for the proposed research. Staff believes that these estimates generally remain applicable and appropriate for the survey; however, as noted below, staff has adjusted certain aspects of the estimates after consultation with the contractor for the study.

A. Estimated number of respondents: 170

¹⁷ The FTC staff has included the topics for the walk-through of the consumer's documents. The documents that the consumer may have for the purchase and financing could vary among consumers who participate.

¹⁸ 81 FR 780.

B. Burden Hours: 367 hours¹⁹

C. Labor Costs: Negligible

More specifically, staff estimates that the contractor's preliminary review of consumers to select for the survey would involve no more than 170 consumers (at most twice the maximum number of consumers — 85 — that would be involved in the survey).²⁰

The estimated hours are a total of the time for preliminary review, the pretest, the interviews, and obtaining credit scores. The preliminary review will include topics such as whether the consumer has recently purchased a car and has participated in a survey in the past year, as well as the consumer's self-identified race and origin. This review, done by phone, could require no more than 12 minutes per consumer, for 34 hours (170 respondents x 12 minutes).²¹ Staff also estimates that at most, each of the 170 consumers would take approximately 30 minutes to locate or ascertain whether they have their documentation and their credit score for the survey, for 85 hours. Thus, the preliminary review total would be 119 hours.

Staff will pretest the questionnaire and interview materials with approximately five respondents to ensure that questions are easily understood. Based on further FTC staff discussions with the contractor, the survey will involve three additional backup consumers to be

¹⁹ This is a total increase of 16 hours from the prior estimate.

²⁰ As described below, the contractor also would have 19 additional consumers (backups) on site as possible replacements for pretest and regular survey consumers who do not show-up for the interview. These consumers would add certain costs for time related to various aspects of the survey as indicated in the text, but they would not add to the total number of consumers participating in the survey interviews. Also, the 170 consumers include the additional maximum 19 pretest and regular survey backups.

²¹ The FTC has reduced its estimate of needed preliminary review time from 15 minutes to 12 minutes (a 3-minute reduction for each consumer), based on the contractor's current estimate.

available in the event that any of the five scheduled respondents do not show up for the pretest. Staff estimates that each interview (including the documentation review) will take approximately 90 minutes, and 60 minutes travel time to and from the survey. Allowing for an extra ten minutes for questions unique to the pretest, the pretest will total approximately 19 hours (5 respondents x 160 minutes each for the pretest, plus 3 backups x 60 minutes travel time per backup, plus 2 (of the 3) backups x 100 minutes of maximum wait time per backup).²²

Once the pretest is completed, the initial 40 interviews, including travel, will cumulatively total an estimated 108 hours: 60 hours for the interviews (i.e., 40 interviews at 90 minutes each) plus 40 hours travel time to and from the interview facility for the 40 participants, cumulatively, plus eight additional hours, cumulatively, for eight additional participants' travel time to and from the interview facility as potential replacements for possible no-show participants.²³ If an additional 40 consumers are interviewed,²⁴ that will require an additional 108 hours, for the same reasons as above. Thus, for the interviews of 80 consumers, including travel time for 16 backup consumers, staff estimates that 216 hours will be required (80 respondents x

²² After consultation with the contractor, the FTC has slightly increased its estimates of pretest time to account for the backups in the pretest, who are replacements for possible no-show consumers in the pretest. As noted above, three backups will experience travel time to and from the survey, of 60 minutes each, for a total of 180 additional minutes or three hours. Also, two of the backups would be available on site for approximately 200 minutes (each backup would be available to replace two consumers), and one of the backups would be available on site for approximately 100 minutes (to replace one consumer). Thus, the backups might experience replacement time for no-show consumers, which would not add participation time to the survey. However, if fewer consumers are no-shows, it is possible that a maximum of 100 minutes in participation time would apply for each of the two backups - a total of 200 minutes - while they wait to learn if they are needed for the next pretest segment after the initial pretest segment. As noted, the other time for the backups - 100 minutes for each of the two backups, and 100 minutes for one backup - would be as replacement for scheduled pretests or, if the backups are not needed, they would be released promptly at the beginning of the sessions; neither would add participation time.

²³ As noted, the survey will involve consumers from the greater Washington, D.C. metropolitan area.

²⁴ The survey plan has an option for an additional 40 consumers, for a maximum of 80 consumers.

150 minutes each plus 16 backup consumers x 60 minutes each).²⁵

Staff further estimates that approximately 75%, or 78, of the 85 survey participants and 19 backups who are potential participants (three pretest backups and 16 interview backups), for both pretest and interviews, do not already have their credit score and thus will procure it through the services that provide this information. Staff estimates that ten minutes per consumer will be required for this purpose, for a total of 13 hours (78 respondents x 10 minutes each).²⁶

Thus, the FTC's survey will require 367 hours (119 hours for preliminary review + 19 hours for pretest + 216 hours for interviews + 13 hours for obtaining credit scores). The monetary cost per respondent should be negligible. The consumers who participate will already have or will obtain their credit score and provide documentation of that information to Shugoll.²⁷ Costs to obtain their credit score should be nil or negligible. Increasingly, websites offer free credit scores; additionally, credit score information often is available to consumers through credit sources they already have access to, such as credit card or other credit statements, in some cases.

Shugoll will pay respondents (including regular participants and backups) a reasonable

²⁵ The FTC has slightly increased its estimates of time for the regular interviews, to account for the possibility that backup consumers may be needed as replacements for no-show consumers. These eight additional consumers will experience travel time of 60 minutes each. They will not generate additional participation time: if they participate, they will replace the no-show participants; if not needed, they will be released promptly.

²⁶ The FTC has slightly increased its estimates for consumers to obtain credit scores, to account for the possibility that backups may participate and may not already have their credit scores.

²⁷ After consultation with the contractor, the FTC now plans to have consumers who do not already have their credit score obtain it before their interview with the contractor; the contractor will advise consumers of this approach during screening for the survey, which is voluntary. Consumers who do not have, or do not wish to obtain, their credit score will not participate in the survey. This approach will limit provision of unnecessary personal information to the contractor, and will facilitate the survey process, by avoiding delaying the pretest and/or regular interviews for the consumer to obtain his or her credit score information if the consumer does not have it.

and customary financial incentive for participation.²⁸ Participation will not require start up, capital, or labor expenditures by interview participants.

III. Analysis of Comments

In response to the January 7, 2016 Notice, the Commission received 17 germane comments regarding the proposed collection of information.²⁹

A majority of the commenters supported the need for the FTC's proposed study and/or recognized the importance of the topics and area to be studied, and suggested what they view as improvements or specific issues for the proposed study. Three comments questioned the need for the survey in view of the FTC's prior auto activities and/or raised questions about the purpose or objectivity of the survey.

Center for Responsible Lending, National Council of La Raza, Americans for Financial Reform, Consumer Action, Consumers for Auto Reliability and Safety, NAACP, National Association of Consumer Advocates, National Consumer Law Center, National Urban League, Public Citizen, and U.S. PIRG: This joint comment by 11 broad-based national consumer groups applauded the FTC for proposing a survey to explore issues in auto purchasing and financing. They noted the FTC's roundtables examined issues that persist in auto financing

²⁸ Shugoll also will pay regular participants' and backups' parking costs at the interview facility, which will be in Bethesda, Maryland and/or Alexandria, Virginia.

²⁹ The Commission received a total of 23 comments; 17 comments were germane, and are discussed below: a joint comment from the Center for Responsible Lending, the National Council of La Raza, NAACP and eight additional national consumer interest organizations (#633-6); the National Association of Consumer Advocates (#633-5); the National Automobile Dealers Association (#633-4); the National Independent Automobile Dealers Association (#633-7); a joint comment from the American Financial Services Association and the Consumer Bankers Association (#633-1); the Syracuse University College of Law, Office of Clinical Legal Education (#633-2); and 11 individuals. The six non-germane comments are duplicates, "test," or unrelated submissions. Public comments associated with the matter are available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

today, on which the interviews will shed additional light and serve to probe for information about consumers' treatment and experience. They noted that the information should help shape enforcement and regulatory efforts. They suggested that the survey size be increased to 80 consumers with an option for more consumers. They also suggested that Buy Here Pay Here ("BHPH") dealers be addressed separately, through 10-20 additional interviews exclusively focused on BHPH consumers. Finally, they suggested various survey questions or topics, including but not limited to those involving "yo yo financing scams" and add-on products or services. As noted above, the survey plan has an option for an additional 40 consumers. The FTC believes this size will provide useful information in this qualitative survey, about consumers' experiences and issues in the auto purchase and financing area. The information gleaned from this survey will help the agency prioritize subsequent initiatives to protect consumers in auto-related transactions, including selecting strategic areas of focus for enforcement, rulemaking, or education. The FTC appreciates the commenters' suggestions of topics and questions, and believes that the topics it has identified for the survey cover areas that will enable consumers to address broadly their experiences, including those noted in the comment such as occurrences after the contract is signed and add-on products or services.

National Association of Consumer Advocates ("NACA"): This consumer interest group supported a well-executed survey aimed at uncovering important data to assist the FTC in monitoring the marketplace and curbing unfair and deceptive practices in auto sales and lending. The group suggested that the survey should be large enough to provide an accurate representation of the population. It agreed with the FTC approach to obtain experiences from

different populations and encouraged the FTC to include Native Americans, non-English speakers and military members. The FTC notes that this survey is not intended to be representative of the full population; one of its aims is to help the agency shape strategic priorities, including whether follow-on surveys studying particular segments of the population more in-depth should be among the agency's next priorities. However, the survey will be racially diverse and include participants of both sexes; the survey will strive to be inclusive, and respondents' characteristics will in part depend on consumers who participate in the survey.³⁰ Finally, the suggested topics and questions provided by NACA fall within the survey topic areas and may be addressed depending on experiences that participants may have encountered.

National Automobile Dealers Association ("NADA"): NADA raised questions about the purpose, necessity, and methodology of the survey. NADA stated that the Commission already conducted a broad examination of the same questions and developed a record that obviates the need for further examination of this matter, through its roundtable discussions and related comments received through May 2012. It also stated that the FTC does not cite complaint data or data from another source that supports the exercise, that the FTC requested data demonstrating that prevalent abuses exist in the auto industry but received none, and that the FTC overlooks credible quantitative surveys that have been conducted finding a high level of consumer satisfaction, which NADA references in its comment. NADA also provided comments on

³⁰ Depending on the consumers who participate, it is additionally possible that participants with Native American heritage and those with military backgrounds could be included. However, including non-English speakers in the survey would require translators to be available for many potential languages and dialects, for possible participants in the survey. This could vastly increase costs, and create delays during the survey, particularly if the needed translator was not present. Participation by non-English speakers is beyond the focus of the instant survey.

survey methodology, including asking how the Commission will control for respondent fatigue during the survey;³¹ what questions will be asked of consumers and how the Commission will control for interviewer influence; how the Commission will be aided by anecdotal results; how it will control for limits of location research facilities; how it will control for survey respondent characteristics that may not be representative of the consumer population, and control for different attitudes and experiences over time; and whether it will include key analytical variables with only 40 respondents. It also asks about pre-set review criteria for documentation review, asks how the Commission will determine whether to go beyond the initial 40 consumers, and requests that the Commission make available the full methodological report or other written report, and identify additional stages that the Commission will conduct.

The FTC's work since 2011 demonstrates, rather than obviates, the need for further examination of consumer protection issues in the auto marketplace. During the 2011 roundtables, with comments through May 2012, participants raised various auto purchase and lease issues.³² Since that time, the FTC has brought more than 25 auto dealer cases, many focusing on issues that became known in the roundtables, including misrepresentations in auto dealer advertisements about payments and rates; issues related to negative equity; add-ons; and many others.³³ Despite these public law enforcement actions, there has continued to be illegal

³¹ NADA's comment misstates that the proposed survey is quantitative. See NADA comment at 5. The survey is qualitative.

³² The roundtables transcripts and videos from all three forums are available at: <https://www.ftc.gov/news-events/press-releases/2012/02/ftc-continues-look-public-input-consumer-issues-motor-vehicle>; public comments received in this matter are available at <https://www.ftc.gov/policy/public-comments/initiative-369>.

³³ As also noted in the prior 60-day Federal Register Notice, more information on FTC cases in the auto area is available at <https://www.ftc.gov/news-events/media-resources/consumer-finance/auto-marketplace>.

conduct in the auto marketplace, often involving the same or similar conduct as the conduct challenged in prior actions.³⁴ This persistent conduct indicates that additional measures are necessary, including to study consumer experiences and help determine additional ways to protect consumers in auto transactions.

The proposed survey is expected to provide in-depth information about consumer protection issues that could be addressed through FTC initiatives, including enforcement, rulemaking, or education.³⁵ The survey will focus on learning directly from consumers their

³⁴ For example, in 2012, the Commission settled charges that five dealerships made deceptive claims that they would pay off the remaining balance on consumers' trade-ins, no matter what they owed. According to the FTC's complaints, the dealers actually rolled the remaining balance (negative equity) into the customers' new car financing, or in one instance, required the consumer to pay it out-of-pocket. See *In the Matter of Billion Auto, Inc.*, Docket No. C-4356 (May 1, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3209/billion-auto-inc-matter>; *In the Matter of Frank Myers AutoMaxx, LLC*, Docket No. C-4353 (Apr. 19, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3206/frank-meyers-automaxx-llc-matter>; *In the Matter of Key Hyundai of Manchester, LLC, and Key Hyundai of Milford, LLC*, Docket Number C-3358 (May 4, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3204/key-hyundai-manchester-llc-hyundai-milford-llc-matter>; and *In the Matter of Ramey Motors, Inc.*, Docket No. C-4354 (Apr. 19, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3207/ramey-motors-inc-matter>. A few years later, the FTC settled charges that another dealer, among other things, promoted the sale and lease of its vehicles using an ad that claimed consumers could get out of their current loan or lease for \$1, when in fact the dealer rolled the balance of the prior obligation into the new transaction. See *In the Matter of TXVT Limited Partnership*, Docket No. C-4508 (Feb. 12, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3117/txvt-limited-partnership-matter>. In 2013, the FTC settled charges that two auto dealers deceptively advertised the cost or available discounts for their vehicles. See, e.g., *In the Matter of Ganley Ford West, Inc.*, Docket No. C-4428 (Jan. 28, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/1223269/ganley-ford-west-inc-matter>, and *In the Matter of Timonium Chrysler, Inc.*, Docket No. C-4429 (Jan. 28, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/1323014/timonium-chrysler-inc-matter>. About a year later, the FTC settled charges that another dealer, among other things, misrepresented that specific discounts, rebates, incentives or prices were generally available to consumers, when in fact they were not. See *In the Matter of TT of Longwood, Inc.*, C-4431 (July 2, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3047/tt-longwood-inc-matter-cory-fairbanks-mazda>. The FTC has brought multiple other cases addressing deceptive practices by auto dealers. See, e.g., FTC, Press Releases, *FTC Announces Sweep Against 10 Auto Dealers*, Jan. 9, 2014, available at <https://www.ftc.gov/news-events/press-releases/2014/01/ftc-announces-sweep-against-10-auto-dealers>, and *FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing*, Mar. 26, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>.

³⁵ With respect to the studies that NADA referenced about generalized "customer satisfaction," the proposed survey neither is a duplicate of such a survey nor is it similarly focused. Instead, the proposed survey pertains to individual

specific experiences through the entire purchase and financing process, and will include a review of their documents, as opposed to hearing about more general experiences from the perspective of the auto industry, consumer advocates, and regulators, as the roundtables did.³⁶ While the latter stakeholders' perspectives are certainly important, it is also critical to hear from consumers themselves.

As the proposed survey is qualitative, the results will not be interpreted as quantitative measures of prevalence of practices. A qualitative survey facilitates an understanding of the nuances of consumer comprehension and thought-processes in the complex task of vehicle purchasing and financing. The proposed survey focuses expansively on consumers' experiences at the dealership in car purchasing and financing, and the interviewer will avoid suggesting particular problems. There is no indication that respondent fatigue will impede consumers in their ability to describe their own experiences, which they will do on a voluntary basis. Only consumers who purchased a car within the past six months will be involved, which is a recent timeframe. The Commission cannot state for now whether it would go beyond the initial 40 consumers in the survey, which may, in part, be contingent on the time required for that first segment. The FTC has not determined whether it will publish a report on the survey results. Finally, the information obtained by the FTC through the survey could support or be useful in

consumers' discussion of their experiences with the car purchase and financing process, including a walk-through of the consumer's related documents. This information to be gathered by the survey is also not necessarily something that is covered by complaints filed with the FTC – which last year numbered 93,917, making it our eighth most complained about category – because it encompasses a broader consideration of the purchase and financing process and consumers' experiences. *See, e.g.,* FTC, *Consumer Sentinel Network Data Book for January - December, 2015* (Feb. 2016) at 6, available at <https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2015/160229csn-2015databook.pdf>.

³⁶ Staff also has now provided additional information regarding the topics to be discussed, as described above.

various initiatives for this important area, such as enforcement, rulemaking, or education.

American Financial Services Association and Consumer Bankers Association: These groups supported the general professionalism of the FTC’s work and its research staff. However, they expressed concern about possible bias, based on references about potentially “unfair or deceptive practices” in the January 7, 2016 Notice, and they noted that the FTC previously had three roundtables and “did not find any problems with the selling, financing, or leasing of motor vehicles.”³⁷ The comment also expressed a preference for separating research from enforcement and for removing all identifying information about dealers and financiers from the survey. The comment stated that the survey size is too small, making an analysis for statistical trends impossible; inquired about the questions to be asked; expressed the need to avoid interviewer steering of respondents; and encouraged the survey to focus on third party financing at a bank or credit union. Finally, it provided various questions, including about: the reason for the project, additional phases of the project, issues for consideration, the purpose of the documents, the reason for diversity in the respondents, and how results of the project will be distributed.

The FTC is charged with enforcement of numerous statutes, as noted in the January 7, 2016 Notice, including protecting consumers against unfair or deceptive conduct, in violation of Section 5 of the FTC Act; this focus was also noted in the FTC’s announcements regarding its auto roundtables.³⁸ The FTC has brought more than 25 enforcement actions, which specifically

³⁷ AFSA-CBA Comment at 1.

³⁸ See, e.g., FTC, Press Release, Third FTC Roundtable to Cover Motor Vehicle Leasing Issues, Review Sales, Financing and Leasing Issues from All of the Roundtables, and Discuss Possible Next Steps (Oct. 25, 2011) (“Dealer-arranged financing can be a complicated, opaque process and could potentially involve unfair or deceptive practices.”), available at <https://www.ftc.gov/news-events/press-releases/2011/10/third-ftc-roundtable-cover-motor-vehicle-leasing-issues-review>; see also FTC, Public Roundtables: Protecting Consumers in the Sale and Leasing of Motor Vehicles, 76 FR 14014 (Mar. 15, 2011), available at <https://www.gpo.gov/fdsys/pkg/FR-2011-03->

address such alleged conduct, as well as other alleged violations of federal laws and regulations related to automobile sales and financing. It is erroneous to state that the FTC has found no problems in this area; indeed, it has found many diverse problems affecting consumers at auto dealerships, and has been bringing enforcement actions repeatedly since that time to address them, as described in the prior Notice and as available at its website at <https://www.ftc.gov>.³⁹

The purpose of the survey is to explore broadly consumers' experiences in the purchase and financing process of their automobiles; as indicated, no decision has been made about what initiatives would be appropriate as an outgrowth of the process because the survey itself has not occurred. As noted above, the survey is qualitative; therefore, its size or structure is not designed to be representative of the population. Steering of respondents will be avoided; the survey is broadly explorative of the auto buying and financing process and consumers' experiences at the dealership. Additional information about survey topics, including about the review of consumers' documents, appears above. The survey focuses on entities and activities over which the agency has jurisdiction, namely auto dealerships and their financing practices – not third party financing from banks (or federal credit unions) over which the FTC does not have

[15/pdf/2011-5873.pdf](#).

³⁹ Indeed, these cases include two civil penalty matters filed in federal court against auto dealers that were previously charged by the FTC with violating Section 5 of the FTC Act by engaging in deceptive practices, among other things, and who – after entering into administrative orders with the Commission – were charged with violating those orders, again engaging in deceptive practices. See FTC, Press Releases, *FTC Takes Action Against Two Auto Dealership Chains For Violating 2012 Orders Prohibiting Deceptive Advertising of Vehicle Costs*, Dec. 12, 2014, available at <https://www.ftc.gov/news-events/press-releases/2014/12/ftc-takes-action-against-two-auto-dealership-chains-violating>, and *FTC Action: Auto Dealership Will Pay \$80,000 Penalty for Violating 2012 order Prohibiting Deceptive Advertising of Vehicle Costs*, Sept. 18, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/09/ftc-action-auto-dealership-will-pay-80000-penalty-violating-2012>. The dealers paid \$360,000 (Billion) and \$80,000 (Ramey). See *id.*

jurisdiction.⁴⁰ The survey will be racially diverse and include participants from both sexes – as these various consumers may offer information about differing experiences at dealerships where consumers have purchased and financed vehicles.⁴¹ The results of the study will be used to inform and provide insights to the FTC regarding consumer understanding of the automobile purchasing and financing process at the dealership. The FTC has not determined whether it will publish a report on this matter.

National Independent Dealers Association (“NIADA”): This organization stated that the survey’s results will not be generalizable to the U.S. population, and thus it does not believe its costs are warranted. The comment stated that the survey was duplicative of the prior FTC roundtables. As noted above, the survey will be qualitative, and is not duplicative of prior roundtables because it focuses on consumers’ individual experiences and the process of purchasing and financing automobiles at dealerships, including through a review of their documents. Thus, the survey will provide new information in this area, which involves a significant and costly financial transaction for most consumers. The FTC believes the information will be useful to the Commission, as it continues striving to address issues in the important area of auto purchases and financing at dealerships.

Syracuse University School of Law Legal Clinic: This comment provided information regarding problems affecting consumers in the auto financing area, and suggested that regulation

⁴⁰ See, e.g., 15 U.S.C. 45(a).

⁴¹ The Commission generally does not expect to redact information from consumers’ documents about the names and locations of dealerships. However, to the extent that individual consumers’ or dealers’ information such as account numbers, Social Security numbers, or Taxpayer ID numbers are contained on these documents, such information will be redacted from information provided to the FTC. The survey will utilize rigorous protections for privacy and security of consumer information.

in this area would protect consumers. It stated that dealers use high-pressure tactics to force people into vehicles they cannot afford, that some vehicles involve warranties and other costly additional items, and that dealers routinely falsify documents to finance the deals. The comment provided several examples of consumers who have experienced specific problems with auto dealerships. The FTC appreciates this information, as it is helpful to know about issues in the marketplace given that we are focused on protecting consumers in this area.

*Eleven Additional Individuals:*⁴² Each of these comments raised specific problems that the individuals or consumers, or others for whom they provided the FTC information, had encountered with auto dealerships.⁴³ They described a variety of problems that the consumers experienced, including but not limited to: changing offers at the dealership for financing after the consumer had responded to a specific ad; dealers that sold cars on terms beyond the consumers' circumstances or ability to pay; dealerships that convinced the consumer to accept dealer-financing that was later declined to be finalized; misrepresentations by dealers to sell vehicles; dealer financing of "back-end products" like warranties, GAP policies and wheel protection; and problems in used car sales and trade-ins. The FTC appreciates this information regarding specific issues consumers face in the auto buying marketplace because we are focused on protecting consumers in this area.

⁴² These comments are: Wilson #633-00017; Prohaska #633-00012; Burton #633-00010; Mandola #633-00008; Dawson #633-00009; Leech #633-00005; Aragon #633-00006; Johnson #633-00007; Sloan #633-00004; and Sutton #633-00002, available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

⁴³ For example, one mother commented regarding the experience of her son who has learning disabilities, in connection with an auto dealership where he went to claim a "scratch-off prize" that he thought he had won in response to a flyer that he received in the mail. See Sloan #633-00004, available at <https://www.ftc.gov/policy/public-comments/initiative-633>.

IV. Request for Comment

Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the Commission is providing this second opportunity for public comment. In addition to inviting comment on the practical utility of the proposed survey, accuracy of the FTC's associated PRA burden estimates, ways to enhance the information to be collected and to minimize burden, the FTC seeks comments on the proposed survey methodology and specific issues or questions that should be included in the interview process.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 30 days after date of publication in the FEDERAL REGISTER]. Write "Auto Buyer Consumer Survey, Project No. P154800" on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission website, at <https://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial

information which is . . . privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).⁴⁴ Your comment will be kept confidential only if the FTC General Counsel or the General Counsel’s designee grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/autobuyersurveypra2>, by following the instructions on the web-based form. When this Notice appears at <https://www.regulations.gov/#!home>, you also may file a comment through that website.

If you prefer to file your comment on paper, write “Auto Buyer Consumer Survey, Project No. P154800” on your comment and on the envelope and mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400

⁴⁴ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public

7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, they should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5806.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [30 days from FEDERAL REGISTER date of publication]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka
Acting General Counsel.

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record. See FTC Rule 4.9(c), 16 CFR 4.9(c).